



April 8, 2009

City Clerk
City Project Manager: Gabrielle Wilder
City of San Jose
City Hall, 200 E. Santa Clara St.
San Jose, CA 95113

Reference: Fleming Park Project
City of San Jose

Gentlemen:

We herein protest consideration of recommendation to award the contract for the above referenced project to Jos. J. Albanese, Inc. for their failure to comply with the following Bid Form requirements. Section 2-1.10 of the San Jose Standard Specifications #9 under the heading "Disqualification of Bidders" Failure of the bidder to provide prices for all items in the proposal, including alternatives, or submitting an incomplete or otherwise non-responsive proposal.

Goodland Landscape Construction, Inc. believes that the Albanese Co. proposal is incomplete and non-responsive for failing to follow section 4100 of the Public Contract Code regarding listing of Sub-Contractors performing more than 1/2 of 1% of the total contract price of the project.

Jos. J. Albanese "List of Subcontractor" sheet fails to list a resilient surface installer. The value for this specialized task is approximately \$10,500 to \$12,600 as can be seen by the four quotes received at bid time by Goodland, which we have provided copies with this letter. This far exceeds the threshold of 1/2 of 1% of the total base bid.

Section 10-15.8 requires that Sport Surface Specialties or an approved equal be the manufacturer of the rubber surfacing. The installer is another issue, for that reason it is imperative the General Contractor identify the Subcontractor/Installer who is licensed by the Contractors State License Board holding a D-12 License and usually a manufacturer specific Certification for installation of their product for insurance/warranty purposes. Goodland does not believe that the Albanese Co. holds either the D-12 specialized license or the manufacturer certification to self perform the resilient surface work. We noticed on the recent Watson Park Bid that they failed to list a Surfacing Subcontractor for the \$45,000 Alternate #4. We were not the 2nd bidder however and had no stake in making issue of the omission. Please review our competitors List of Subcontractors sheet and you will notice that the General Contractors with park construction experience always list the Resilient Surfacing Installation Company. It doesn't appear in reviewing the Jos. J. Albanese impressive list of Job Experience that they have any Park Construction Experience, it's all concrete related and perhaps that's why their very reputable firm failed to list the Resilient Surfacing Subcontractor. This is a very serious bid infraction, a "Material Defect". The law is in place to protect all bidders leaving an equal playing field, preventing possible bid shopping after the bid allowing a General Contractor to make up for a bid error that gave said bidder an economical bidding advantage over its competitors. This law keeps the integrity of the Public Works bidding process in tact.

A close review of line item 15 of the Albanese bid proposal compared to all other bids could leave one to conclude that the rubber was left out of the bid. Either way the omission of the Subcontractor listing should render the bid "non-responsive".

Based on the information provided above, along with the four Resilient Surface quotes we are providing to the City, Goodland believes the City of San Jose should declare the Bid by Jos. J. Albanese for the Fleming Park Project as Non-Responsive and reject their Bid. Goodland believes that we are the lowest responsible bidder with the lowest responsive bid and should be awarded the project. Our experience list along with our references should give comfort that we are capable of providing a quality project for the City of San Jose and its Citizens.

Should you require additional information or assistance regarding this matter, please contact the undersigned at 209-321-2642.

Sincerely,

A handwritten signature in black ink, reading "Thomas R. Wortham". The signature is fluid and cursive, with the first name "Thomas" being the most prominent.

Thomas R. Wortham
Vice President

cc: John W. Busby, Attorney at Law



Surfacing is not something we do, it's All we do.

PO Box 577 (Ship to Address: 938 Center Street)

East Aurora, NY 14052

Phone (716) 652-2039 Fax (716) 805-1001

CA License # 915057- C-61 Limited Specialty D-12 Synthetic Products

Quotation

DATE March 27, 2009

Quotation # QT318092

Customer ID DAVID ADAMS

Bill To: **ESTIMATING/ BIDDING DEPT.**

Quotation valid until: May 26, 2009

Prepared by: Stacey Midura

Your Contact: David Adams 916-698-4257 - Fax: 916-391-6154

Email: dadams@sportsurface.net



Comments or special instructions: **Fleming Park**
Bid Line Item #15 Play Area

Description	AMOUNT
<u>Compliant with Resilient Synthetic/Rubber Surfacing-Play Area 10-15.8</u>	
958 SQ.FT. "DURA TURF" POURED IN PLACE RUBBER SURFACING PER Sheet 4	11,636.83
3" Thickness as per detail C/7	
Color Is 35% Green 35% Beige 30% Black including <u>Aliphatic Binder</u>	
PREVAILING WAGE	
Material, Labor & Shipping	
TOTAL	\$ 11,636.83

459 RECYCLED TIRES WILL BE USED FOR THIS PROJECT

OUR STANDARD COLORS: Terra Cotta Red, Blue, Green, Beige, Eggshell, Dark Grey, Lt Grey

OUR CUSTOM COLORS: Bright Red, Orange, Yellow, Teal, Purple, Brown, Earth Yellow, Bright Green, Lt Blue

All orders are Net 30 unless prior arrangements are made in writing. A deposit may be required based on company history.

Dumpsters for Trash removal and Security for the site are the responsibility of the customer unless prior arrangements are made in writing and listed on the quote.

Please sign the quote and submit it with your purchase order to indicate acceptance of these terms

THIS QUOTE IS FOR THE SAFETY SURFACE ONLY. NO SUB BASE AGGREGATE OR SITE WORK IS INCLUDED
Our standard insurance does not include primary wording or subrogation. Bonding and Additional Insured may be additional costs.

Accepted By:

Signature: _____

Printed: _____

Date: _____

THANK YOU FOR YOUR BUSINESS!



Surfacing is not something we do, it's All we do.

PO Box 577 (Ship to Address: 938 Center Street)

East Aurora, NY 14052

Phone (716) 652-2039 Fax (716) 805-1001

CA License # 915057- C-61 Limited Specialty D-12 Synthetic Products

Quotation

DATE March 27, 2009

Quotation # QT318091

Customer ID DAVID ADAMS

Bill To: **ESTIMATING/ BIDDING DEPT.**

Quotation valid until: May 28, 2009

Prepared by: Stacey Midura

Your Contact: David Adams 916-698-4257 - Fax: 916-391-6154

Email: dadams@sportsurface.net



Comments or special instructions:

Fleming Park

Add Alternate #1 Exercise Area

Bid Line Item A-1

Description	AMOUNT
<u>Compliant with Resilient Synthetic/Rubber Surfacing-Play Area 10-15.8</u>	
161 SQ.FT. "DURA TURF" POURED IN PLACE RUBBER SURFACING PER Sheet 4	\$ 1,953.74
3" Thickness as per detail C/7	
Color Is 35% Green 35% Beige 30% Black including <u>Aliphatic Binder</u>	
PREVAILING WAGE	
Material, Labor & Shipping	
TOTAL	\$ 1,953.74

542 RECYCLED TIRES WILL BE USED FOR THIS PROJECT

OUR STANDARD COLORS: Terra Cotta Red, Blue, **Green**, **Beige**, Eggshell, Dark Grey, Lt Grey

OUR CUSTOM COLORS: Bright Red, Orange, Yellow, Teal, Purple, Brown, Earth Yellow, Bright Green, Lt Blue

All orders are Net 30 unless prior arrangements are made in writing. A deposit may be required based on company history.

Dumpsters for Trash removal and Security for the site are the responsibility of the customer unless prior arrangements are made in writing and listed on the quote.

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THIS QUOTE IS FOR THE SAFETY SURFACE ONLY. NO SUB BASE AGGREGATE OR SITE WORK IS INCLUDED
Our standard insurance does not include primary wording or subrogation. Bonding and Additional Insured may be additional costs.

Accepted By:

Signature: _____

Printed: _____

Date: _____

THANK YOU FOR YOUR BUSINESS!



Sport Surface
Specialties, LLC

California Office

808 Sao Jorge Way - Sacramento CA 95831
Phone: (916) 698-4257 - Fax: (916) 391-6154
Email: dadams@sportsurface.net

TRANSMITTAL SHEET

TO: **ESTIMATING - BIDDING**

FROM: **DAVID ADAMS, C.P.S.I.**

DATE 04/02/09

TOTAL NO. OF PAGES INCLUDING COVER: 2

RE: **FLEMING PARK, SAN JOSE**

Attached is our quote for this project. Please read it carefully. If you have any questions contact me immediately.



By Robertson Industries
4145 W. Mercury Way
Chandler, Az 85226
602.340.8873 | Fax: 602.340.0482

Project Number P09-3333
03/25/2009
For Official Use Only

An IPEMA Certified Product

PROJECT INFORMATION

Name FLEMING PARK
Address FLEMING AVENUE @ WATERSTONE COURT
SAN JOSE, CALIFORNIA 95127
Contact ALEX TSITOVICH
Phone 510-381-8294
Fax 925-687-9114

SALES CONTACT

Alex Tsitovich
Phone (510)381-8294
Fax (925) 256-8472

Terms and Conditions: Quote is based on the information provided and is subject to change based on final installation unless indicated below. Sub-base provided by others is to meet TotTurf specifications and grade elevations. Sub-base work performed by others is the responsibility of the owner. In the event that a change in color, color percentage, thickness, or square footage is requested, a revised proposal and/or purchase order will be required before installation can begin. Bonding is not included in quote pricing unless otherwise specified.

Wage Rate	Prevailing	Aliphatic Urethane	Yes	Excavation	No
Impact Testing	No	Saw Cutting	No	Turn Down (SqFt)	0.0

Product Type	Product Description	Total Sq Ft
TotTurf PIP	BASE BID 3"	907.0
TotTurf PIP	ADD ALT. EXERCISE	163.0

Special Notes:

1. COLOR TO BE 35% GREEN, 35% TAN, 30% BLACK WITH ALIPHATIC URETHANE AS SPECIFIED. 2. 3" THICK, CUSTOMER TO CONFIRM THICKNESS AND SQUARE FOOTAGE. 3. SEAMLESS TOP(S). 4. SECURITY NOT INCLUDED ADD \$600.00. 5. BASE BID = \$12,683, ADD ALTERNATE = \$2000.

Pad Base Price	\$14214.78
Subbase	\$0.00
Tex	\$468.09
Total Price	\$14,682.87
Total Unit Price	\$13.72

Prepared By: Alex Tsitovich

Quote is Valid Until: 06/23/2009



Help prolong the life of your new TotTurf product! The Robble Maintenance Program is designed to add years of life to your safety surface. For more information please contact your sales representative at the number above or call our corporate office at 1-800-858-0519



This Project will recycle 740 Passenger Tire Equivalents (PTE's)

TotTurf is a
PlayCore
Company

Proposal Acceptance**Proposal Number P09-3333****Credit Card Information:**

Name (As it Appears on Card): _____

Card Number: _____

Expiration Date: _____ Type: Visa _____ Mastercard _____

Signature: _____ Date: _____

Contract or Purchase Order Information:

To: _____

Invoice Contact Name: _____

Phone: _____ Fax: _____ Email: _____

Address: _____

City: _____ State: _____

Zip Code: _____

Payment Terms: Payment arrangements may be made via Cash, Credit Card, Purchase Order, or Contract. Contractors and private agencies requesting line of credit must apply and be approved by Robertson Industries prior to order acceptance. Credit applications may be obtained from your sales representative. Job size, scope, and credit approval may require deposit. Residential projects require a 50% deposit with the balance due upon completion.

Acceptance: I agree to the terms stated in this agreement and am duly authorized by the project owner to approve and accept this order as stated.

Accepted By: _____ Printed Name: _____

Title: _____ Phone Number: _____

Date: _____ Fax Number: _____

Email: _____

Total Purchase Amount: \$14,682.87

AZ LICENSE ROC091920 * CA LICENSE #667261 * NV LICENSE #0042331

☒ NORTHERN CALIFORNIA REGIONAL OFFICE☐ CORPORATE OFFICE

2442 Estand Way
PLEASANT HILL, CALIFORNIA 94523
800-858-0519 PHONE
925-687-7955 PHONE SERVICE CTR.
925-687-9114 FACSIMILE 1
925-258-6472 FACSIMILE
alex@totturf.com EMAIL

4145 WEST MERCURY WAY
CHANDLER, ARIZONA 85226
800-858-0519 PHONE
602-340-8873 PHONE
602-340-0402 FACSIMILE

CONTRACTORS LIC. 667261 C/64 D/64 - C/61 D/12

☒ Facsimile☐ Transmittal

To:	ESTIMATOR / VARIOUS CONTRACTORS	From:	ALEX TSITOVICH, CALIFORNIA SALES MANAGER
Fax:		Pages:	3
Phone:		Date:	APRIL 02 2009
Re:	FLEMING PARK P09-3333		

☐ URGENT ☒ REVIEW ☐ REPLY ☐ RECYCLE ☐ FILE

BID DATE: APRIL 02, 2009 (READ SPECIAL NOTES)

TOTTURF BY ROBERTSON INDUSTRIES, INC. AN I.P.E.M.A. AND NPSI CERTIFIED MANUFACTURER, IS PLEASED TO PROVIDE THE ATTACHED QUOTE FOR YOUR CONSIDERATION:

- THE SCOPE OF THE PROPOSAL **DOES NOT EXCEED** MANUFACTURES "STANDARD" PRODUCT, WARRANTIES, SERVICES AND ASSURANCES UNLESS STATED.
- ANY CHANGES OR ADDITIONS TO THIS PROPOSAL TO INCLUDE MATERIALS WILL AFFECT PRICING.

GENERAL SCOPE:

1. PROVIDE MATERIAL AND INSTALLATION OF POURED IN PLACE RESILIENT SURFACING.
2. ☒ PREVAILING WAGE ☐ REGULAR WAGE ☐ CMAS
3. SQUARE FOOTAGE, THICKNESS, AND COLOR AS NOTED.
A. **DOES NOT INCLUDE ROOFTOP INSTALLATION, SITEWORK, CONCRETE, COMPACTION OF AGGREGATE, FENCING, SECURITY, BONDING, PERMITS OR LICENSES, EXTENDED WARRANTIES, BUILDERS RISK INSURANCE/ ADDITIONALLY INSURED, O.C.I.P., OR WAIVERS OF SUBROGATION.**
4. **ACCESS FOR EQUIPMENT REQUIRED (MAXIMUM 25' FOR TRUCK AND MIXER, NO STAIRS). IRRIGATION, SPRINKLERS, AND WATERING WITHIN 25' OF INSTALLATION OF REPAIRS WILL BE SHUT DOWN UNTIL WORK IS COMPLETED FOR A MINIMUM OF 24 HOURS.**
5. INSTALLERS LOCAL, MATERIALS STORED AT LOCAL SERVICE CENTER.
6. CALIFORNIA CONTRACTORS LICENSE.
7. I.P.E.M.A.* CERTIFIED NPSI ** CERTIFIED
8. ATTENUATION TESTING/NPSI INSPECTION NOT INCLUDED AND BY OTHERS.
9. IF INSTALLATION DATE EXCEEDS 6 MONTHS FROM BID DATE, PRICING MAY BE AFFECTED AND INCREASE.
10. IF SITE IS NOT READY TO START OR COMPLETE THE ENTIRE JOB WHEN INSTALLERS ARRIVE, ADDITIONAL CHARGES FOR DOWNTIME WILL BE ACCESSED.

* INTERNATIONAL PLAY EQUIPMENT MANUFACTURERS ASSOCIATION

**NATIONAL PLAYGROUND SAFETY INSTITUTE

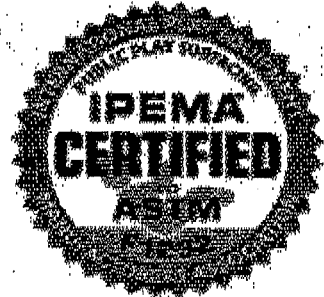
AGAIN THANK YOU FOR YOUR CONSIDERATION AND GOOD LUCK.
REVISED 1-15-9



Playground Surfacing Estimate

3/31/2009

Attn: General Contractors



The playground surfacing components identified in this plan are IPEMA certified. The use and layout of these components conform to the requirements of ASTM F1292-04.

RE: **Fleming Park - San Jose, CA**
Base Bld

Scope of Work: Provide and install SpectraPour playground surfacing per your submitted layout. Surfacing to be installed per specifications as a uniform thickness pad to meet CPSC standards and ASTM F1292-04 for impact attenuation. Price is for rubber surfacing only, and excludes sitework, sub-base materials, asphalt, concrete, borders, curbs, sub-base compaction, graphics, etc.

Square footages are estimates based upon drawings submitted to SpectraTurf. Actual areas to be surfaced frequently vary, therefore estimate is priced on a price/s.f. basis. Perimeters which require a turned-down edge also require additional square feet of surfacing and will be included into net area. Final billing shall reflect actual area surfaced (net area surfaced), including turned-down edges.

Color Mix				
35% Green, 35% Tan, 30% Black				
Critical Fall Height (CFH):				
Min	=			Thick
Max	7"	=	3"	Thick
Estimated Area:		830 s.f.		

Price	
Materials	Included
Tax	Included
Installation Costs	Included
Freight	Included
Total :	\$ 11.54 s.f.

Thank you for considering SpectraTurf on this project. If I may be of any further assistance, please feel free to contact me at your convenience at (800) 875-5788.

Sincerely,

Alex D. Stout

Sales Estimator

- Includes:**
- 1 Prevailing Wages
 - 2 Aliphatic Resin
 - 3 Color Mix per Specifications



Playground Surfacing Estimate

3/31/2009

Attn: General Contractors



The playground surfacing components identified in this plan are IPEMA certified. The use and layout of these components conform to the requirements of ASTM F1292-04

RE: **Fleming Park - San Jose, CA**
Add Alternate No. 1

Scope of Work: Provide and install SpectraPour playground surfacing per your submitted layout. Surfacing to be installed per specifications as a **uniform** thickness pad to meet CPSC standards and ASTM F1292-04 for impact attenuation. Price is for rubber surfacing only, and excludes sitework, sub-base materials, asphalt, concrete, borders, curbs, sub-base compaction, graphics, etc.

Square footages are estimates based upon drawings submitted to SpectraTurf. Actual areas to be surfaced frequently vary, therefore estimate is priced on a price/s.f. basis. Perimeters which require a turned-down edge also require additional square feet of surfacing and will be included into net area. Final billing shall reflect actual area surfaced (net area surfaced), including turned-down edges.

Color Mix				
35% Green, 35% Tan, 30% Black				
Critical Fall Height (CFH):				
Min		=		Thick
Max	7'	=	3"	Thick
Estimated Area:		140 s.f.		

Price	
Materials	Included
Tax	Included
Installation Costs	Included
Freight	Included
Total :	\$ 11.54 s.f.

Thank you for considering SpectraTurf on this project. If I may be of any further assistance, please feel free to contact me at your convenience at (800) 875-5788.

Sincerely,

Alex D. Stout

Sales Estimator

- Includes:**
- 1 Prevailing Wages
 - 2 Aliphatic Resin
 - 3 Color Mix per Specifications

M.A.K. Associates, Inc. DBA

Estimate No. 10622

PlayGrounds Unlimited

Ver. 1

1175 Willow Avenue
 Sunnyvale, CA 94086
 Phone: 408-244-9848
 FAX: 408-244-9847
 License #: 756794

Estimator
 Richard MacDermott
 Phone: 408-639-5096
 FAX: 408-519-6811

Shipping Information**SHIP TO:**

Contact _____
 Company Fleming Park
 Address 1 _____
 Address 2 _____
 City State Zip San Jose CA 95113

Company Information**ESTIMATE FOR:** Client ID 13904

Name _____
 Address 1 _____
 Address 2 _____
 City State Zip _____
 Contact _____
 Phone _____ FAX _____

Estimate No 10622 Ver 01 Date 4/2/2009 Associate RM Change Order # _____ Vendor ID PGU-

Job No _____ Job Name Fleming Park Job Contact Name _____

Scope of Work	Contract
01 Installation only of the Big Toy Custom Sunrise play structure, Kompan Spica1 and playground safety signage.	\$4,880.00
02 Supply and install approx. 910 sf of Surface America rubberized resilient surfacing with a min. 3" with a color mix of 35% Hunter Green #1612, 35% Beige #1308 & 39% Black with the UV stable "Aliphatic" binder.	\$12,085.00
03 Add. Alt. #1: Supply and install approx. 165 sf of Surface America rubberized resilient surfacing with a min. 3" with a color mix of 35% Hunter Green #1612, 35% Beige #1308 & 39% Black with the UV stable "Aliphatic" binder.	\$2,580.00
Totals	\$19,545.00
Other	
Grand Total	\$19,545.00

Special Instructions**Terms & Conditions**

By signing below you acknowledge and agree to our **Contract**; Exclusions, Conditions, & Payment Terms which are to be included in, and supersede any additional contracts or sub-contract agreements made separately based on this "Estimate". Unless otherwise specified above we **Exclude** Responsibility for: material delivery &/or off loading equipment, removal of packaging accumulated by equipment supplied by others, project security, landscape & hardscape repair based on access route to site, delays or returns due to layout conflicts, missing or damaged components & hardware, removal of spoils from job site, locating underground; utilities, pipes, obstructions in work area, permits, engineering, material testing, soil samples, play equipment certifications. **Conditions:** Grades (rough grade to be taken + or - one tenth of one inch), adequate access to work site provided for workmen, materials, tools, & equipment. Estimate good for 90 Days. **Payment Terms:** Material balance due on delivery / Installation balance due upon completion of project.

Print Name:**Sign:****Date:**

M.A.K. Associates, Inc. DBA

Estimate No. 10622

Ver. 1

PlayGrounds Unlimited

1175 Willow Avenue
 Sunnyvale, CA 94086
 Phone: 408-244-9848
 FAX: 408-244-9847
 License #: 756794

Estimator
 Richard MacDermott
 Phone: 408-639-5096
 FAX: 408-519-6811

Shipping InformationSHIP TO:

Contact _____
 Company Fleming Park
 Address 1 _____
 Address 2 _____
 City State Zip San Jose CA 95113

Company Information

ESTIMATE FOR: Client ID 13904
 Name _____
 Address 1 _____
 Address 2 _____
 City State Zip _____
 Contact _____
 Phone _____ FAX _____

Estimate No 10622 Ver 01 Date 4/2/2009 Associate RM Change Order # _____ Vendor ID PGU-
 Job No _____ Job Name Fleming Park Job Contact Name _____

Scope of Work	Contract
01 Installation only of the Big Toy Custom Sunrise play structure, Kompan Spica1 and playground safety signage.	\$4,880.00
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03 Add. Alt. #1: Supply and install approx. 165 sf of Surface America rubberized resilient surfacing with a min. 3" with a color mix of 35% Hunter Green #1612, 35% Beige #1308 & 39% Black with the UV stable "Aliphatic" binder.	\$2,580.00
04 Add. Alt. #1: Installation only of the Par Course equipment.	\$1,385.00

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Print Name:

Sign:

Date:

M.A.K. Associates, Inc. DBA

Estimate No. 10622

Ver. 1

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Phone: 408-244-9848
FAX: 408-244-9847
License #: 756794

Estimator
Richard MacDermott
Phone: 408-639-5096
FAX: 408-519-6811

Shipping InformationSHIP TO:

Contact _____
Company Fleming Park
Address 1 _____
Address 2 _____
City State Zip San Jose CA 95113

Company Information

ESTIMATE FOR: Client ID 13904
Name _____
Address 1 _____
Address 2 _____
City State Zip _____
Contact _____
Phone _____ FAX _____

Estimate No 10622 Ver 04 Date 4/2/2009 Associate RM Change Order # _____ Vendor ID PGU-

Job No _____ Job Name Fleming Park Job Contact Name _____

Scope of Work	Contract
	Totals \$20,930.00
	Other
	Grand Total \$20,930.00

Special Instructions

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Print Name:

Sign:

Date: